BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C. 20554

In the Matter of

DOCKET FILE COPY ORIGINAL

Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Athens, IL and

MM Docket No. 95-111

Atlanta, IL)

RM-8652, RM-8704

To: Chief, Allocations Branch Policy and Rules Division Mass Media Bureau OCT 1 6 1995
FEDERAL COMMUNICATIONS COMMISSION

REPLY AND OPPOSITION TO COUNTERPROPOSAL

WMS1, Inc. (WMS1), by its attorneys, now opposes the "Comments and Counterproposal" submitted by Atlantis Broadcasting Co., L.L.C. (Atlantis) on September 18, 1995. These comments are timely pursuant to the <u>Public Notice</u>, Report No. 2102, released September 29, 1995.

In its rulemaking proposal, WMS1 asked the Commission to allot Channel 241A to Athens, Illinois so that it could provide Athens with a first local service to that community. In its counterproposal, Atlantis urges the Commission to allot Channel 242A to Atlanta, Illinois. The two proposals are mutually exclusive. In fact, the public interest would be served by allotting Channel 241A to Athens and denying the Atlantis counterproposal. The most current data available shows that since the 1990 Census, Athens has outgrown Atlanta and has a greater need for a first broadcast service.

Atlantis argues that its proposal is superior because neither Athens nor Atlanta has any broadcast station licensed

No. of Copies rec'd O† List ABCDE to it and because the 1990 U.S. Census lists the population of Atlanta as 1,616 persons while Athens is listed as having 1,404 persons. In fact, more recent data demonstrate that since the 1990 Census, Athens has experienced significant growth while Atlanta has not had any meaningful growth. attached letter from the Mayor of Athens, the Honorable George E. Cerar¹ demonstrates that in the last five years, Athens has grown by greater than fifteen percent. Thus, the population of Athens is now greater than 1,615, which is a fifteen percent increase over 1,404 (the population at the time of the 1990 Census). At the time of the 1990 Census, the population of Atlanta was 1,616. In contrast to Athens, Atlanta has seen little growth in the last five years. According to information from the Honorable Rick Lynch, the mayor of Atlanta (submitted as Attachment 2 to this reply), only thirty-five new housing units have been constructed in since the beginning of 1990. Since it is clearly possible that other housing units have been destroyed or abandoned, Atlanta has been stagnant since 1990.

The University of Illinois Cooperative Extension Service has prepared a study comparing the markets in Atlanta and Athens. A copy of the study is submitted as Attachment 3 to this reply. The study shows that within the immediate area of the two communities (a three mile radius of the center of each

¹ A copy of this letter is submitted as Attachment 1 to this reply.

community), Athens has a greater population than Atlanta. The population in the Athens area is 2,383 persons, while the Atlanta area has only 1,890 persons. Thus, the Athens area has 493 more persons than Atlanta. Furthermore, the university's projections show that, by 1999, the Athens area's population will remain steady, while the Atlanta area will lose an additional three percent of its population (down to 1,832 persons).

Clearly, Atlantis can no longer claim a preference for Atlanta's larger population because the census data Atlantis relies upon does not reflect the current status of the communities. Indeed, the University of Illinois study, which compares the two communities under the same criteria, demonstrates that Athens has a greater need for a first local service than Atlanta because there are currently more people in the Athens area. Accordingly, the WMS1 proposal should be granted because Athens has outgrown Atlanta. At a minimum, Atlantis' claim to a preference for providing a first service to a larger community must be rejected because the Census data it relies upon does not reflect the current situation.

If the Commission determines that any difference in the current populations of Atlanta and Athens is too small to warrant a preference for first broadcast service to the community, Athens must be awarded the allotment because other factors support a grant of the allotment to Athens. First, a station licensed to Athens would serve over four times as many

people as a station licensed to Atlanta. Using the reference coordinates proposed by WMS1 and Atlantis, respectively, and assuming maximum facilities (6 kW with an antenna 100 meters HAAT), the proposed Athens facility would serve 176,041 persons, while an Atlanta station would only serve 40,612 See the statement of Doug Vernier submitted as Attachment 4 to this reply. Under allotment priority four (other public interest factors), the primary determining factor is which proposal would serve more people. Kentucky, and Athens, Ohio, 6 FCC Rcd 1493, 1495 (1991). The WMS1 proposal is entitled to an overwhelming preference under that factor. Atlantis has not shown the existence of other public interest factors supporting the grant of an allotment In contrast, as shown in the enclosed brochure to Athens. (Attachment 5 to this reply), Athens has its own churches, businesses, schools, post office, municipal government, and other institutions which show its need for a local broadcast service. Accordingly, if Athens is not awarded a dispositive preference under allotment priority three (first service), it must receive such a preference under allotment priority four (other public interest factors).

² A petitioner can overcome the presumption that service to more people is in the public interest by demonstrating that it would provide more service to underserved areas using the discounting methodology described in the <u>Greenup</u> case. Atlantis has not attempted to use that methodology.

Accordingly, WMS1 asks the Commission to allot Channel 241A to Athens, Illinois and to deny the counterproposal tendered by Atlantis.

Respectfully submitted,

WMS1, INC.

By W. Jewa

By John J. Schauble

Bechtel & Cole, Chartered 1901 L Street, N.W., Suite 250 Washington, DC 20036 (202) 833-4190

Date: October 16, 1995

ATTACHMENT A

City of Athens

Clerk Jack Morris

Mayor George E. Cerar

Treasurer Rhonda Ethell

October 2, 1995

To Whom It May Concern:

The City of Athens 1990 census was 1,404 people. In the past five years the City has seen a growth of greater than fifteen per cent.

We feel this trend will continue due to all the new development projects that are in process.

We would highly recommend granting a FCC license to establish a radio station in the Athens area. This would be a great benefit to the citizens in the area.

I have personally known Larry Williams and his family for over twenty years and they are very respectable business individuals.

We urge you to grant this license request.

Sincerely,

George E. Cerar, Mayor

CITY OF ATHENS

GEC:sh

Phone: 217-636-8429 Fax: 217-636-7949

ATTACHMENT B

City of Atlanta

Office of the Mayor
ATLANTA, ILLINOIS 61723



Oct. 2, 1995

Larry Williams 2901 S. Holmes Springfield, Il. 62704

Dear Larry:

Enclosed please find copies of our Building Permits obtained from the past 5 years. As you will notice, we have 35 new units constructed, this includes houses and duplexes, and 1 triplex.

I hope this will help you with the information you need.

Sincerely,

Rick Lynch, Mayor

City of Allente Excelling airmits 1995

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ATTACHMENT C

MARKET PROFILES AND COMPARISON

FOR

ATHENS AND ATLANTA, ILLINOIS

PREPARED BY

UNIVERSITY OF ILLINOIS COOPERATIVE EXTENSION SERVICE

Patrick Curry
Economic Development Educator
Springfield Extension Center
PO Box 8199
Springfield, IL 62791-8199
Phone: (217) 782-6515

Fax:

(217) 782-8886





Cooperative Extension Service

University of Illinois at Urbana-Champaign

Springfield Extension Center, P. O. Box 8199, Springfield, IL 62791-8199 Phone: (217) 782-6515 - Fax: (217) 782-8886

DATE:

October 4, 1995

TO:

Judy Bailey

FROM:

Patrick Curry

RE:

Athens and Atlanta, Illinois Market Profiles

CC:

Pat Buchanan

In response to your request for population data for the Athens and Atlanta, Illinois markets I have provided the following information:

- 1. Location maps for both places showing three and five mile radius circles around the geographic center of each community.
- 2. A one page summary for each place, "1990 Key Demographics", showing characteristics for the incorporated area from the 1990 Census.
- 3. A two page market profile, "Demographic Update: 1994 & 1999", for the population living within a three and five radius of the geographic center of each place. The data estimates for 1994 and projections from 1999 were developed by Urban Decision Systems, Inc. These data are used extensively by the public and private sectors for demographic analysis and market research. The final reports were compiled using a geographic information system.

Comparison of the Census data and market profiles clearly indicate the Athens market has a significantly greater population base in both the three and five mile radius areas. In addition, the income characteristics of the Athens market are also higher. Finally, the projected growth (2.2%) in Athens's 5 mile radius market exceeds the Atlanta market which is projected to lose about 2.7% of its population. The results are summarized in the following table:

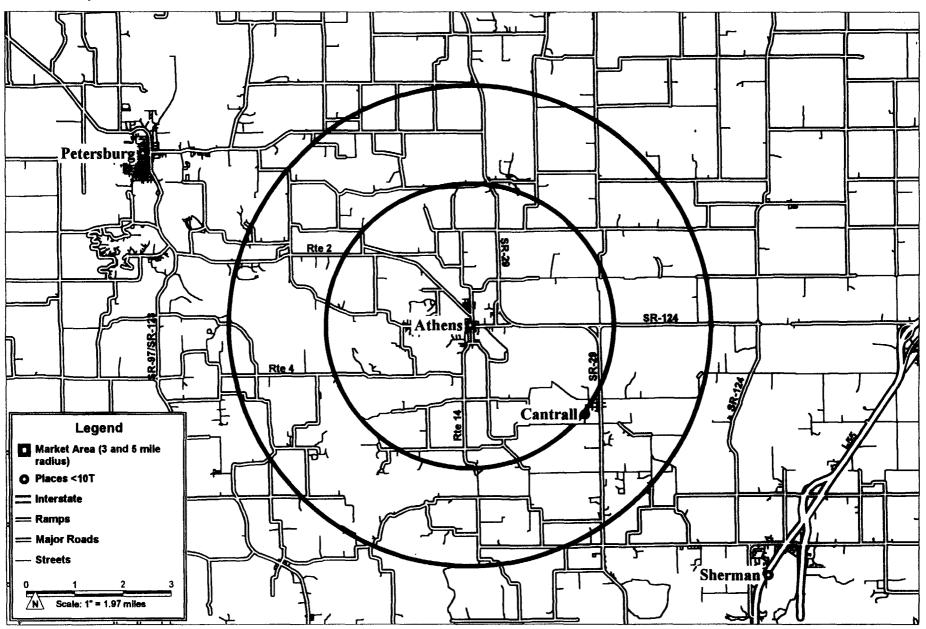
MARKET COMPARISON: ATHENS AND ATLANTA, ILLINOIS

	Athens	Atlanta
1990 Census Population	1,403	1,615
1994 Population Estimate 3 Mile Radius	2,383	1,890
1994 Population Estimate 5 Mile Radius	4,121	2,920
1994 Median Household Income (3 Miles)	\$34,643	\$30,134
1994 Median Household Income (5 Miles)	\$37,084	\$32,165

If you have any questions please do not hesitate to call.

ATHENS, ILLINOIS MARKET PROFILE

Athens, IL Market Area: 3 and 5 Mile Radius



Source: Springfield Extension Center

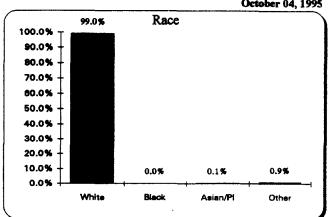
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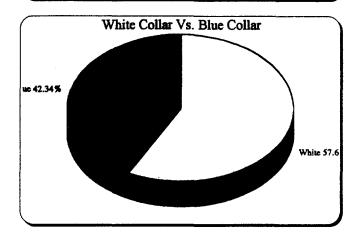
1990 Key Demographics Athens, IL

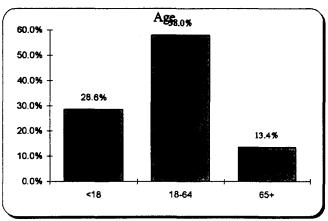
University of Illinois CES

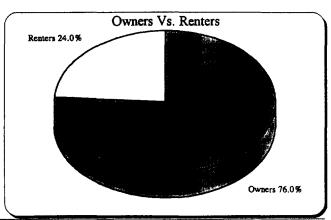
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•	October	· 114.	1995

Population	1,403	
In households	1,403	100.0%
Group quarters	0	0.0%
Group quarters	V	V.V/0
Households	525	
Families	394	75.0%
With children	206	52.3%
Non-family	131	25.0%
Average household size	2.67	
Race		
White	1,389	99.0%
Black	0	0.0%
Asian/PI	2	0.1%
Other	12	0.9%
Hispanic population	6	0.4%
• • •		
Labor force, 16+	701	50.0%
Employed	659	94.0%
White collar	380	57.7%
Blue collar	279	42.3%
Household income		
Average	\$34,901	
Aggregate (Mil)	\$18.32	
Age		
<18	401	28.6%
18-64	814	58.0%
65+	188	13.4%
		
Tenure	200	76.00/
Owners	399	76.0%
Renters	126	24.0%
Housing Value		
Average home value	052 (00	
Aggregate value (Mil)	\$53,600 \$21.39	
WRiekure Aurae (MIII)	\$21.39	
Rental value		
Average rent	\$210	
Aggregate rent (Mil)	\$0.03	
DBBm varie (vivi)	Ψ0.05	









University of Illinois CES 10/04/95

10/04/95 Page1

Demographic Update: 1994	& 1999
Athens, IL Market Profile:	3 Mile Radius

Down Letter	1994 Estimate	%	1999 Projection	%	%Change
Population	2,383	0.09/	2,385	0.00/	0.1%
in group quarters	0	0.0%	0	0.0%	#DIV/0!
in households in families	2,383	100.0%	2,385	100.0%	0.1%
in lamines	2,117	88.8%	2,091	87.7%	-1.2%
Age					
< 6 years	159	6.7%	133	5.6%	-16.4%
6 - 9 years	206	8.6%	215	9.0%	4.4%
10 - 13 years	166	7.0%	168	7.0%	1.2%
14 - 17 years	176	7.4%	193	8.1%	9.7%
18 - 20 years	89	3.7%	94	3.9%	5.6%
21 - 24 years	84	3.5%	67	2.8%	-20.2%
25 - 34 years	316	13.3%	254	10.6%	-19.6%
35 - 44 years	445	18.7%	469	19.7%	5.4%
45 - 54 years	284	11.9%	340	14.3%	19.7%
55 - 64 years	173	7.3%	176	7.4%	1.7%
65 - 74 years	156	6.5%	139	5.8%	-10.9%
75 - 84	108	4.5%	114	4.8%	5.6%
85+ years	19	0.8%	19	0.8%	0.0%
Median age	34.6		36.1		4.3%
Females	1,225		1,229		0.3%
< 6 years	62	5.1%	48	3.9%	-22.6%
6 - 9 years	107	8.7%	113	9.2%	5.6%
10 - 13 years	71	5.8%	74	6.0%	4.2%
14 - 17 years	82	6.7%	89	7.2%	8.5%
18 - 20 years	38	3.1%	42	3.4%	10.5%
21 - 24 years	, 53	4.3%	48	3.9%	-9.4%
25 - 34 years	154	12.6%	122	9.9%	-20.8%
35 - 44 years	244	19.9%	261	21.2%	7.0%
45 - 54 years	149	12.2%	186	15.1%	24.8%
55 - 64 years	73	6.0%	70	5.7%	-4.1%
65 - 74 years	97	7.9%	85	6.9%	-12.4%
75 - 84	65	5.3%	65	5.3%	0.0%
85+ years	14	1.1%	14	1.1%	0.0%
Median age, females	36.5		37.7		3.4%
Males	1,158		1,156		-0.2%
< 6 years	97	8.4%	85	7.4%	-12.4%
6 - 9 years	99	8.5%	102	8.8%	3.0%
10 - 13 years	95	8.2%	94	8.1%	-1.1%
14 - 17 years	94	8.1%	104	9.0%	10.6%
18 - 20 years	51	4.4%	52	4.5%	2.0%
21 - 24 years	31	2.7%	19	1.6%	-38.7%
25 - 34 years	162	14.0%	132	11.4%	-18.5%
35 - 44 years	201	17.4%	208	18.0%	3.5%
45 - 54 years	135	11.7%	154	13.3%	14.1%
55 - 64 years	100	8.6%	106	9.2%	6.0%
65 - 74 years	59	5.1%	54	4.7%	-8.5%
75 - 84	43	3.7%	49	4.2%	14.0%
85+ years	5	0.4%	5	0.4%	0.0%
Median age, males	32.2		34.0		5.7%

Source: 1994, 1999 UDS Estimates

University of Illinois CES 10/04/95

Demographic Update: 1994 & 1999 Athens, IL Market Profile: 3 Mile Radius

Page 2

	1994 Estimate		1999 Projection		94-99 %
Race			-	•	Change
White	2,360	99.0%	2,355	98.7%	-0.2%
Black	1	0.0%	2	0.1%	100.0%
Am Indian	10	0.4%	13	0.5%	30.0%
Asian/PI	4	0.2%	5	0.2%	25.0%
Other Race	8	0.3%	10	0.4%	25.0%
Hispanic	17	0.7%	18	0.8%	5.9%
Total aggregate income(M)	\$ 34.66		\$39.64		14.4%
Per capita income	\$14,544		\$16,619		14.3%
Households	891		908		1.9%
Families	684	76.8%	689	75.9%	0.7%
Household Income					
< \$5,000	37	4.2%	33	3.6%	-10.8%
\$5,000 - \$9,999	57	6.4%	49	5.4%	-14.0%
\$10,000 - \$14,999	68	7.6%	59	6.5%	-13.2%
\$15,000 - \$24,999	153	17.2%	130	14.3%	-15.0%
\$25,000 - \$34,999	128	14.4%	141	15.5%	10.2%
\$35,000 - \$49,999	213	23.9%	182	20.0%	-14.6%
\$50,000 - \$74,999	172	19.3%	203	22.4%	18.0%
\$75,000 - \$99,999	32	3.6%	62	6.8%	93.8%
\$100,000 - \$149,999	17	1.9%	29	3.2%	70.6%
\$150,000+	5	0.6%	6	0.7%	20.0%
Average HH income	\$39,085		\$ 43,940		12.4%
Median HH income	\$34,643		\$38,367		10.7%
Aggregate HH income (M)	\$34.82		\$39.90		14.6%
Average fam income	\$45,567		\$51,311		12.6%
Median fam income	\$39,999		\$4 6,281		15.7%
Aggregate fam income (M)	\$31.17		\$35.35		13.4%
Household Size					
1 person	186	20.9%	200	22.0%	7.5%
2 persons	292	32.8%	300	33.0%	2.7%
3-4 persons	311	34.9%	307	33.8%	-1.3%
5+ persons	101	11.3%	100	11.0%	-1.0%
Average household size	2.67		2.63		-1.8%
Vehicles available	1,723		1,780		3.3%
Average vehicles available	1.93		1.96		1.4%
Vehicles per household					
0	54	6.1%	53	5.8%	-1.9%
1	227	25.5%	226	24.9%	-0.4%
2	390	43.8%	400	44.1%	2.6%
3+	225	25.3%	229	25.2%	1.8%
Owners	687	77.1%	718	79.1%	4.5%
Renters	204	22.9%	190	20.9%	-6.9%

Source: 1994, 1999 UDS Estimates